

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHERINE A. ALLEN and U.S. POSTAL SERVICE,
MAIN POST OFFICE, New Orleans, LA

*Docket No. 00-901; Submitted on the Record;
Issued April 5, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained a neck injury in the performance of duty.

On August 28, 1998 appellant, then a 44-year-old mail sorter, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that on March 3, 1998 she first became aware of neck pain. She operated a mail-sorting machine by pressing the key(s) to enable the machine to divert each piece of mail to the proper destination. Appellant stated that her arm kept hurting her every time she keyed on the machine.

Appellant included a detailed job description with her claim, as well as a medical report dated March 12, 1998, which described appellant as having "some tingling in her right arm but [the doctor] thinks it is from keying. Arm has been hurting for about two weeks."¹

By letter dated October 26, 1998, the Office of Workers' Compensation Programs informed appellant that additional factual and medical information was needed in order to determine whether she was eligible for benefits under the Federal Employees' Compensation Act. The Office specifically requested a comprehensive medical report from appellant's treating physician describing the diagnosis and his opinion on the cause of the condition.

In response, appellant submitted several doctors' reports, which were received by the Office on November 4, 1998. Two reports from Dr. Kenneth N. Adatto, a Board-certified orthopedic surgeon, diagnosed appellant with carpal tunnel syndrome, cervical syndrome NEC and lumbago. A patient ledger printed on October 13, 1998 diagnosed appellant with cervical disc syndrome. A second report from Dr. Adatto's clinic dated October 8, 1998 diagnosed appellant as having cervical/lumbar syndrome and carpal tunnel syndrome. A magnetic

¹ It should be noted that this medical report seems to have been filled out by Pam Mirovich, R.N. Dr. Wanda G. Timpton's name does appear on the report, but it is unclear whether she actually signed the report.

resonance imaging (MRI) scan from Dr. H. Denny Taylor, a Board-certified radiologist, diagnosed appellant as having “moderate cervical spondylosis changes at the C5-6 level, 3 mm or so of right posterior lateral protrusion of the C5-6 disc” and stated that minor degenerative changes were evident at the C6-7 level. A memorandum from Dr. Timpton dated July 31, 1998 was also included, as well as an examination report dated March 12, 1998 by Dr. Taylor, finding “early cervical spondylosis” and “medial spurring of the undersurface of the acromion.”

By decision dated December 14, 1998, the Office denied appellant’s claim for compensation stating that the medical evidence was not sufficient to establish a causal relationship between appellant’s condition and her federal employment.

On January 4, 1999 the Office received a request from appellant to review the written record along with a letter from Dr. Timpton dated December 30, 1998. The letter stated: “[Appellant] was seen and evaluated in my office and diagnosed with cervical/lumbar syndrome and carpal tunnel syndrome.... As a result of this [her] condition is job related.” Appellant also submitted the January 26, 1999 report of Dr. R. Joseph Tamimie, a specialist in occupational medicine, who found chronic pain about the lower back and neck “most likely secondary to degenerative cervical spine and discs....”

A review of the record was conducted on April 15, 1999 and on April 16, 1999 the hearing representative affirmed the denial of appellant’s claim, finding that appellant had not submitted any medical evidence establishing that the employment factors identified were the cause of her condition for which compensation was claimed.

By letter dated May 12, 1999, appellant requested reconsideration of the April 16, 1999 decision. She submitted some duplicate medical evidence and some new medical evidence previously not considered by the Office.

The new evidence included a letter from Dr. Sofjan Lamid, Board-certified in physical medicine and rehabilitation, dated May 10, 1999, which stated: “[Appellant] was injured at the [employing establishment] on March 3, 1998. This injury caused pain of neck, back, hands and right arm which was due to herniated discs L4-5 and L5-S1, bulging L1-2 disc, bilateral carpal tunnel syndrome, bilateral ulnar neuropathy, bulging disc C5-6 and aggravation degenerative disc C6-7.” “Therefore, there was a causal relationship between work injury and herniated discs L4-5 and L5-S1, bulging L1-2 disc, bilateral carpal tunnel syndrome, bilateral ulnar neuropathy, bulging disc C5-6 and aggravation degenerative disc C6-7.” Also included was an MRI scan performed on March 22, 1999 by Dr. Sherman I. Brown, a Board-certified radiologist, and an electromyogram performed October 7, 1998 by Dr. Gerald F. Burns, Board-certified in physical medicine and rehabilitation.

On September 10, 1999 the Office found the evidence was not sufficient to warrant modification of its prior order.

The Board finds that appellant has not met her burden of proof to establish that she sustained a neck injury in the performance of duty.

An employee seeking benefits under the Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁵

In the present case, appellant has submitted medical reports to the Office which state several diagnoses related to appellant’s cervical spine and upper extremities. She has also provided a statement defining the employment factors alleged to have caused her conditions. Appellant has not, however, submitted the medical evidence necessary to establish causal relationship.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

The medical reports of record do not adequately address the issue of causal relationship. In a May 10, 1999 report from Dr. Lamid, the physician listed appellant’s diagnoses and stated: “therefore, there is a causal relationship between work injury and herniated discs.” The probative value of this report is limited in that Dr. Lamid did not provide a detailed description of appellant’s employment factors or any explanation of how medically the performance of

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Vicky L. Hannis*, 48 ECAB 538 (1997).

⁶ *Delores C. Ellyett*, *supra* note 4; *Ruthie M. Evans*, *supra* note 4.

appellant's work activities would have caused or contributed the diagnosed conditions. A conclusory statement without supporting rationale is of little probative value.⁷

The December 30, 1998 report from Dr. Tipton stated: "[appellant] was seen and evaluated in my office and diagnosed with cervical/lumbar syndrome and carpal tunnel syndrome.... As a result of this [appellant's] condition is job related." Dr. Tipton does not offer any opinion or rationale as to how or why appellant's conditions were job related. Again, a conclusory statement without supporting rationale is of little probative value.⁸ Similarly, the report of Dr. Tamimie does not address the issue of causal relationship and is of diminished probative value.

As appellant did not submit any rationalized medical opinion evidence causally relating her diagnoses to her employment factors, appellant did not meet her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated September 10 and April 16, 1999 are hereby affirmed.

Dated, Washington, DC
April 5, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Marilyn D. Polk*, 44 ECAB 673 (1993).

⁸ *Id.*